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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation in East Timor

Report of the Secretary-General

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Introduction

1. At its fiftieth session, the Chairman of the Commission on Human Rights made a statement, on 9 March 1994, announcing what had been agreed by consensus by the Commission on the situation of human rights in East Timor (see E/1992/24-E/CN.4/1994/132, para. 482). In that statement, the Commission *inter alia* welcomed the current dialogue between Indonesia and Portugal under the auspices of the United Nations Secretary-General and encouraged him to continue his good offices in order to achieve a just, comprehensive and internationally acceptable settlement to the question of East Timor. The Commission also requested the Secretary-General to keep it informed on the situation of human rights in East Timor, which it would consider at its fifty-first session.

2. The present report has been prepared in response to the requests contained in the above-mentioned statement.

3. Section I of the report contains an update on the good offices activities of the Secretary-General concerning the question of East Timor; section II contains a summarized description of action taken by various thematic special rapporteurs and working groups of the Commission. Annex I contains information provided by the Government of Indonesia; annex II contains information provided by the Government of Portugal; annex III contains a summary of reports and other pertinent material provided by non-governmental sources.

4. The attention of the Commission on Human Rights is also drawn to the note by the secretariat on the situation in East Timor, dated 5 August 1994, which was submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-sixth session (E/CN.4/1994/Sub.2/14 and Add.1).

I. UPDATE ON THE GOOD OFFICES ACTIVITIES OF THE SECRETARY-GENERAL CONCERNING THE QUESTION OF EAST TIMOR

5. Since the last session of the Commission, the Secretary-General, in his continuing effort to help find a solution to the question of East Timor, has led two rounds of talks between the Foreign Ministers of Indonesia and Portugal. The meetings, the fourth and the fifth since the dialogue under his auspices resumed in 1992, were both held at Geneva, on 5 May 1994 and 9 January 1995, respectively. At the same time, the Secretary-General has continued to consult prominent East Timorese of various political views, within the context of the efforts to find a just, comprehensive and internationally acceptable solution to the question of East Timor.

6. It will be recalled that, owing to the wide difference in the positions of the two sides on the issue of the status of the Territory, the dialogue between the two Governments had until now focused on improving the atmosphere of the talks and on promoting confidence-building measures. While confidence-building is a continuing process, the Secretary-General has been encouraging the two sides to move to a more substantive phase in their discussions, since a perceptible improvement in the atmosphere of their dialogue and a measure of progress in the implementation of a number of

confidence-building measures has already been achieved. Through talks at the Permanent Representative-level at Headquarters in New York and through two missions he dispatched to Indonesia, East Timor and Portugal in preparation for the last two rounds of ministerial meetings, the Secretary-General has made a sustained effort to identify a series of substantive issues on which there was sufficient common ground to begin discussions. The Secretary-General has been encouraged in this endeavour by the desire shown by both Governments to make progress, as reflected in the statement issued at the conclusion of the fifth round of talks on 9 January 1995 (Press release SG/SM/5519).

7. The 9 January meeting also took note of a number of steps taken since the fourth round of talks, including the meetings in October 1994 of the Foreign Ministers of Indonesia and Portugal with leading East Timorese opponents and supporters of integration respectively, held pursuant to the agreement reached at the fourth round, and the visit to East Timor in July 1994 of the Special Rapporteur on extrajudicial, summary or arbitrary executions of the Commission on Human Rights at the invitation of the Government of Indonesia.

8. Another important outcome of that round was the understanding reached concerning the Secretary-General's initiative aimed at the convening of a dialogue among East Timorese representing various trends of opinion. At that meeting, the two Ministers noted positively the Secretary-General's intention to facilitate and make the necessary arrangements for such a dialogue. This all-inclusive intra-East Timorese dialogue, while not addressing the central issue of the political status of the Territory and without constituting a parallel negotiating track, will explore ideas of a practical nature that might have a positive impact on the situation in East Timor and assist in the establishment of an atmosphere conducive to the achievement of a solution to the question.

9. Consultations were held with a wide range of East Timorese organizations and personalities on this subject. The first such consultations were initiated in September 1994 when the Secretary-General dispatched an observer to attend a meeting among various East Timorese from inside and outside East Timor, held at Chepstow in the United Kingdom. They were followed by similar consultations with other East Timorese who did not attend the above-mentioned meeting. The result of these consultations has been broad and encouraging support for the Secretary-General's initiative. Efforts are currently under way to set the all-inclusive intra-East Timorese dialogue in motion.

10. As in the past, the human rights situation in East Timor has received prominent attention in the contacts that the Secretary-General and his representatives have had with the Governments of Indonesia and Portugal, with the various East Timorese groups and personalities, and with concerned third parties. The Secretary-General continues to follow closely developments related to the Territory, inter alia the situation of imprisoned East Timorese, including Jose "Xanana" Gusmao, the leader of the armed independence movement in East Timor, currently serving a 20-year jail term. During 1994, Mr. Fransesc Vendrell from the Department of Political Affairs, who headed two missions to Indonesia and East Timor, met with Mr. Gusmao in January and in November, at Cipinang prison in Jakarta.

11. At the fourth and fifth rounds of ministerial talks at Geneva due consideration was given to the need to improve the human rights situation in East Timor. At the fifth round, the Ministers recalled the relevant Chairman's statements indicating consensus agreement reached by the Commission on Human Rights, in particular with regard to the issue of access to the Territory, to the early release of the East Timorese imprisoned and to full accounting for the dead or missing as a result of the violent incident at Dili on 12 November 1991, and took note of the intention of the Government of Indonesia, as expressed during the session, to take further steps for the implementation of the undertakings contained therein.

12. The next meeting between the Foreign Ministers of Indonesia and Portugal is scheduled to take place on 19 May 1995 in New York. In the interim, the Secretary-General will continue to carry out consultations with all sides to facilitate the implementation of the points of agreement reached at the last round of ministerial talks.

II. ACTION TAKEN BY SPECIAL RAPPORTEURS AND WORKING GROUPS OF THE COMMISSION ON HUMAN RIGHTS CONCERNING EAST TIMOR

A. Action taken by the Special Rapporteur on the question of torture

13. Information regarding the action taken by the Special Rapporteur on the question of torture with regard to East Timor is described in detail in the report of the Special Rapporteur to the Commission (E/CN.4/1995/34, paras. 381-401).

14. During 1994 the Special Rapporteur transmitted to the Government of Indonesia information alleging that the vast majority of people arrested in East Timor, including women, were held in unacknowledged and frequently incommunicado detention for periods ranging from a few hours to several months, and that most such persons were held without access to lawyers or relatives and were reportedly subjected to physical and psychological abuse before being released without being charged. The Special Rapporteur transmitted five cases of East Timorese who were allegedly subjected to severe torture, including two who allegedly died as a result of the torture. The Special Rapporteur also transmitted to the Government an urgent appeal concerning five East Timorese students arrested in May 1994. The Government of Indonesia replied, giving details about the cases and denying all allegations of torture or ill-treatment.

15. In his observations, the Special Rapporteur noted the absence of replies from the Government with respect to information transmitted to it over the past two years, as well as the absence of replies to his requests to conduct a mission to Indonesia and East Timor in follow-up to a mission carried out in 1991 by his predecessor and to receive information on measures taken in pursuance of recommendations made by his predecessor following his mission.

B. Action taken by the Special Rapporteur on extrajudicial, summary or arbitrary executions

16. Information regarding the action taken by the Special Rapporteur with regard to East Timor is described in detail in the report of the Special Rapporteur to the Commission (E/CN.4/1995/61, paras. 26 and 173-176), and in the report of the Special Rapporteur on his visit to Indonesia and East Timor, from 3 to 13 July 1994 (E/CN.4/1995/61/Add.1).

C. Action taken by the Working Group on Arbitrary Detention

17. Information regarding the action taken by the Working Group on Arbitrary Detention with regard to East Timor is described in the report of the Working Group to the Commission (E/CN.4/1995/31, paras. 19-21). In September 1994 the Working Group adopted an interim decision on the cases of Xanana Gusmao, in which it concluded that, in order to be able to investigate the true facts of the matter, it was necessary for it to visit Indonesia and East Timor (see Interim Decision 34/1994 (Indonesia), in E/CN.4/1995/31/Add.2).

18. The Government of Indonesia, by letter dated 24 November 1994, responded to the transmission of the above-mentioned Interim Decision by providing more details on the cases and by reiterating its intention to give careful and genuine consideration to inviting relevant thematic special rapporteurs and/or working groups to visit East Timor province, Indonesia.

D. Action taken by the Working Group on Enforced or Involuntary Disappearances

19. Information regarding the action taken by the Working Group on Enforced or Involuntary Disappearances with regard to East Timor is described in detail in the section concerning Indonesia in the Working Group's report to the Commission (E/CN.4/1995/36, paras. 223-230). In 1994 the Working Group transmitted to the Government of Indonesia three newly reported cases alleged to have occurred in East Timor in late 1992. During 1994, the Government reportedly replied to the Group concerning a number of individual cases (the Working Group's report did not specify whether these cases concerned East Timor).

Annex I

INFORMATION PROVIDED BY THE GOVERNMENT OF INDONESIA

By letter dated 12 July 1994 the Permanent Representative of the Republic of Indonesia to the United Nations transmitted to the Secretary-General a note verbal reading as follows:

"The Permanent Mission of the Republic of Indonesia to the United Nations presents its compliments to the Secretary-General of the United Nations and with reference to the note verbale dated 21 June 1994 from the Permanent Mission of Portugal to the United Nations, contained in document A/49/184, has the honour to state the following:

1. The Government of Portugal in its note verbale once again deems it appropriate and proper to claim itself as the administering power of East Timor. It should be recalled that the process of peaceful decolonization came to an abrupt halt when the colonial administration abandoned the territory in August 1975, leading to civil strife and bloodshed. Portugal at that time expressed its inability to administer East Timor under those circumstances, as was evident from the letter in which the Chargé d'affaires of Portugal to the United Nations stated that the Portuguese authorities do not have the necessary means to normalize the situation (doc. S/11887). In so doing, Portugal in effect relinquished its responsibility as the administering power. Based on the foregoing, it is absurd for Portugal to claim that status in complete contradiction to the prevailing realities.

2. Furthermore, not withstanding the fact that Portugal can no longer claim to be the administering power of East Timor, it should be noted that Portugal has increasingly used or misused the opportunity under Article 73 (e) of the United Nations Charter to launch a series of baseless accusations instead of providing 'statistical and other information of a technical nature relating to economic, social and educational conditions' in East Timor as called for by the provisions of that article.

3. To state that there is no significant improvement in the situation prevailing in East Timor is utterly contrary to reality. In implementing the agreement of 17 September 1993 on confidence-building measures, the Indonesian Government has taken concrete steps, inter alia:

The East Timor Military Operation Command (a special command structure under the command of a Brigadier General) has been dissolved and replaced by a regular District Command as in any other province of Indonesia with a Colonel as its commander.

In October 1993, two battalions were withdrawn from the province as part of an overall reduction of military forces in East Timor to be executed in stages, eventually to become only two battalions. Among the remaining eight battalions, seven are territorial battalions assigned for civic missions.

The Government of Indonesia has granted permission to 59 East Timorese to leave for Portugal in an expanded family reunion programme. Of these, 37 left Jakarta on 28 September and 26 October 1993, while 7 persons (all belonging to one family) were processed administratively for immediate departure; 15 of those granted permission have decided to stay for personal reasons.

On humanitarian consideration, the Government of Indonesia also allowed seven East Timorese youths, who earlier tried to seek asylum at foreign embassies in Jakarta, to leave for Portugal on 29 December 1993.

The Government has also approved requests from a number of East Timorese currently residing in Portugal and Angola to return and to settle in East Timor.

On the question of persons unaccounted for after the 12 November 1991 incident, the Government of Indonesia continues to search for the missing persons, while recognizing that there are indications that some of them might have gone into hiding after the incident or fled the country. As of 17 September 1993 it was conveyed to the Secretary-General that there remained only 57 persons unaccounted for. The Foreign Minister of Indonesia further communicated to the Secretary-General on 29 November 1993 that one Antony Lay, also known as Tonie, previously listed as unaccounted for, had reported to the authorities in East Timor, bringing down the number of those unaccounted for to 56.

A more conducive atmosphere for the promotion and protection of human rights throughout Indonesia has been promoted by the establishment of the National Commission on Human Rights on 7 June 1993, chaired by Mr. Ali Said, former Chief Justice, and the subsequent completion of the appointment of its members by the end of 1993. Its membership comprises 25 prominent figures, including Mr. Clementino dos Reis Amaral, an East Timorese. The Commission, an independent body, is mandated, inter alia, to monitor and investigate violations of human rights.

Earlier misunderstandings and miscommunications with the International Committee of the Red Cross (ICRC) were ironed out in September 1993. The ICRC henceforth resumed its visits and protective functions. It regularly visits East Timorese prisoners both inside and outside the province (Kupang and Jakarta), including Xanana Gusmao. These ICRC activities serve as a guarantee that the Indonesian Government treats those prisoners humanely, in accordance with the agreement on confidence-building measures of 17 September 1993 and 6 May 1994, as well as the Statement of the Chairman of the Commission of Human Rights of March 1994.

The Chairman of a newly established Portugal-Indonesia Friendship Association (PIFA), General (Ret.) Carlos Galvao de Melo, visited Indonesia, including East Timor, from 4 to 21 January 1994.

A group of 9 foreign correspondents/media representatives visited East Timor from 15 to 18 February 1994. This visit was followed by the visit of 25 foreign journalists representing 16 print and electronic media organizations from various countries, from 12 to 15 April 1994. Most of the reports coming from these visits acknowledged positive developments in East Timor.

In line with the 'London spirit of reconciliation', resulting from a meeting between the representatives of East Timorese in Indonesia and representatives of East Timorese now living in exile in Portugal, held on their own initiative in London from 14 to 16 December 1993, 24 East Timorese residing in Portugal visited East Timor and other parts of Indonesia for almost one month, starting on 17 March 1994. Prior to that visit, Dr. Manuel Tilman, an East Timorese lawyer from Macao who is also an activist of the 'International Platform of Jurists for East Timor', visited the province after an absence of 27 years. Furthermore, two East Timorese representatives from Portugal, Pastor Gusmao and Mr. Jose Belo, have also visited Indonesia. They met Xanana Gusmao at the Cipinang Prison in Jakarta on 30 April and toured East Timor for a few days. In East Timor they met with the Governor, the military commander and Bishop Belo.

In May 1994, some 47 East Timorese from Indonesia made a religious visit to Fatima, Portugal.

4. Despite the blatant attempt by Portugal to portray a biased view and to undermine Indonesia's serious and concerted efforts in improving the human rights situation in East Timor, the Commission on Human Rights at its 1994 session adopted by consensus the Chairman's Statement, which confirmed the overall improvements of the situation in the province. The Commission inter alia recognized the positive measures taken by the Indonesian Government to improve the situation; acknowledged the efforts of Indonesia to account for persons missing since the incident of 12 November 1991; welcomed the cooperation existing between the ICRC and the Indonesian Government; expressed its encouragement at the greater access to the province by human rights and humanitarian organizations, as well as international media; and welcomed the undertakings by the Indonesian Government to invite the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions to visit East Timor.

5. The Secretary-General in his statement after the dialogue between the Foreign Ministers of Indonesia and Portugal on 6 May 1994 further confirmed the serious efforts and concrete steps taken by Indonesia. The statement, among other things, welcomed the positive atmosphere in which the talks were held; expressed encouragement at the increased access to East Timor, including visits by East Timorese living abroad; recorded the concurrence of both the Foreign Ministers on the need to ensure that those East Timorese in custody are treated humanely; welcomed the invitation to the Special Rapporteur to visit East Timor (the visit is currently under way); and believed that the dialogue among East Timorese should be encouraged.

6. In view of the foregoing, the Permanent Mission of the Republic of Indonesia takes the categorical view that Portugal's note verbale neither corresponds to the prevailing realities in East Timor nor reflects the wishes and aspirations of the majority of the East Timorese people. It is also incompatible with the letter and spirit of the agreements on confidence-building measures reached by the Foreign Ministers of Indonesia and Portugal during their meetings of 17 September 1993 and 6 May 1994. This latest effort by Portugal is contrary to the commitments undertaken on 6 May 1994 in which, inter alia, it agreed to continue to exercise restraint on the so-called issue of East Timor in the interests of maintaining a favourable atmosphere for further progress towards a comprehensive settlement of the question."

By letter dated 17 October 1994 the Permanent Representative of the Republic of Indonesia to the United Nations Office at Geneva transmitted to the Assistant Secretary-General for Human Rights a note concerning a visit by a British parliamentary delegation to East Timor, reading as follows:

> "A British parliamentary delegation has visited East Timor from 18 to 20 September 1994 as a part of their visit to Indonesia from 8 to 25 September 1994. The five-member parliamentary delegation was headed by Mr. Patrick Nicholls and consisted of Messrs. Robert Bank, Cecil Walker, Roy Beggs, Charles Goodson and James Kilfedder. While in Jakarta, they have met with President Soeharto, Foreign Minister Ali Alatas, a number of other cabinet ministers, members of the National Commission on Human Rights. In East Timor, they met the representatives of ICRC as well as Bishop Bello, the head of the Roman Catholic community in East Timor.
>
> "The visit to East Timor which lasted for three days was made not only to find out more about the situation in the province but also aimed at obtaining first hand information about the steps taken by the Indonesian competent authority to prevent the November 1991 tragic incident from happening again, and having a close look at the development progress of the former Portuguese colony which was integrated into Indonesia 18 years ago.
>
> "In an interview given to the mass media following the visit to East Timor, Nicholls asserted that the human rights of the people in the province has been protected in accordance with the country's relevant laws and regulations. British Ministers and Members of Parliament were impressed by what Indonesia had done in developing East Timor, and for that reason Indonesia deserved special credit. He also commended the armed forces role for their civic mission programmes, for instance, in providing computer courses and basic technological training for the East Timorese youths.
>
> "Nicholls believed that following the Portuguese withdrawal, it was natural if the East Timorese people wanted to join their brothers in other parts of Indonesia since geographically East Timor was part of the Indonesian archipelago. To accelerate development in the country's 27th province, he maintained that the country should give a high priority to the development programme in East Timor so that it can keep pace with other provinces.
>
> "During the interview, he further said that criticism launched by foreign countries against Indonesia on East Timor was virtually caused by exaggerated reports by international media about the province. A country should not air its views on another before knowing the real situation in that other country, he said. He finally voiced his disagreement with reports portraying negative human rights records on East Timor."

By letter dated 26 October 1994 the Deputy Permanent Representative of the Republic of Indonesia to the United Nations Office at Geneva transmitted to the Assistant Secretary-General for Human Rights a note concerning a decision of the Military Court of Dili, East Timor, on two members of the armed forces involved in an incident on 28 June 1994 at the Remexio Church, reading as follows:

> "1. The Military Court of Dili, East Timor on Monday, 17 October 1994 has handed down the verdict for two members of the armed forces, namely Privates Norcahyu Wahyudi and Bachrul Ulum involved in the Remexio Church incident on 28 July 1994. Private Wahyudi was sentenced for two years and Private Ulum was sentenced for two years and six months. In addition, they were discharged from the armed forces.
>
> "2. The members of the Military Court, Lieutenant Colonel Pakpahan, Captain Paulo Martin and Major Daniel Parinding, found the two guilty of desecrating Remexio Church, making public disturbances and disobeying orders, and therefore of having violated the Indonesian Penal Code, in particular articles 156 A, 174, 178 and 242 sub 3, as well as the Military Penal Code, in particular article 103.
>
> "3. As has already been explained by the observer Indonesian delegation at the forty-sixth session of the Sub-Commission, during a ceremony to celebrate the anniversary of the Remexio Roman Catholic Church, on 28 June 1994, the two, who happened to be in the area on a road construction project, decided to sneak into the church to see what a procession looked like. This upset many people who saw it as an affront and prompted them to protest and to attack the two men. The local commander, Col. Jhony Lumintang, apologized publicly to the people of Remexio in particular and of East Timor in general, and promised to investigate immediately.
>
> "4. The trial of the two commenced in early September 1994 and the importance of the case has compelled the Military Court to conduct a semi-open proceeding which was not indeed the case for such court. The trial was attended by government officials, church leaders, journalists and hundreds of East Timorese."

By letter dated 2 November 1994 the Permanent Representative of the Republic of Indonesia to the United Nations Office at Geneva transmitted to the High Commissioner for Human Rights a letter dated 20 October 1994, which the Director of Information of the Indonesian Department of Foreign Affairs had addressed to the Secretary-General of Amnesty International, reading as follows:

> "I wish to voice my strong protest against the contents of a series of publications that Amnesty International issued in succession this year, as follows:
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> 1. 'East Timor - Who is to Blame?' of July 1994;
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> 2. 'East Timor - Protesters, Beaten, Detained, Disappeared' of August 1994; and
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> 3. 'Power and Impunity - Human Rights under the New Order' which was issued in September 1994.
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> "These publications are so replete with falsehoods and malicious misrepresentations and are so obviously in contradiction to the facts of the situation not only in East Timor but throughout Indonesia as well that I feel compelled to respond in order to put the record straight.
>
> "Of the three publications in question, the booklet 'Power and Impunity - Human Rights under the New Order' is the most virulent and malicious for it not only falsely attributes a 'persistent pattern' of human rights violations to the Indonesian Government but also misrepresents the present New Order of Indonesia as the product of a bloody coup d'état. This is worse than mere distortion of history. By misrepresenting the origin of the New Order, which was the vantage around which the Indonesian people rallied to save themselves from chaos in the middle 1960s, you would deprive us of one of the defining moments in the history of modern Indonesia. It is apparent that you are not only out to assassinate the reputation of Indonesia in the community of nations but are also set to destroy something even more vital: a people's dignity and integrity.
>
> "It has now become absolutely clear that you are waging an international, political campaign against Indonesia. In effect, this was the essence of what you said in your statements in Bangkok, Tokyo and elsewhere recently. This is entirely unprecedented. Amnesty International is waging a campaign against just one individual country, with emphasis on Amnesty International's objections to the political structure of that country and its political status in world affairs.
>
> "Though the intended victim of this campaign is Indonesia, the first actual victim is truth because in your desire to blacken the reputation of Indonesia, you have resorted to the dissemination of falsehoods, misrepresentations and innuendos without any factual basis. The second victim is the avowed noble mission of Amnesty International, for by waging this political campaign, you have in fact abandoned the objective of promoting and protecting human rights and adopted a

political agenda as well as a political objective. And with the personal crusade you have now undertaken, you have finally unmasked yourself for the political campaigner that you have become. You have also unmasked your Organization for what it really is, and which we have all along described it to be: an organization waging a political campaign against Indonesia under the banner of human rights.

"For if Amnesty International were really interested in promoting human rights, it should not begrudge Indonesia the recognition given it by other countries and the United Nations Commission on Human Rights for its efforts to improve the human rights situation in East Timor as well as throughout the country. For these are important building blocks on which greater progress on human rights promotion and protection can be built so that eventually Indonesia can attain the kind of human rights situation that its Government and people aspire for.

"Further, if Amnesty International were really interested in promoting human rights, it should not, in its evaluation of the human rights situation in Indonesia, studiously ignore the enhanced social and economic rights that the Indonesian people, including the people of East Timor, Aceh and Irian Jaya, are now enjoying. A balanced and fair assessment of the human rights situation in any country should at least consider these factors, but Amnesty International is obviously not interested in a balanced and fair assessment.

"Fortunately, it has become increasingly clear to all those who are sincerely engaged in championing the promotion and protection of human rights that their concerns are not being served by allowing a malicious and strident anti-Indonesian campaign to be waged by elements and organizations obviously intent on political rather than human rights objectives.

"Fortunately also, the truth cannot be hidden from the international community which has been able to view for itself the positive aspects as well as the constructive changes that have taken place in the human rights situation in Indonesia, including East Timor. On that basis, the United Nations Commission on Human Rights in March 1994 lauded the Indonesian Government for the progress achieved in its human rights record. Early this year the Indonesian Government invited the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions to visit East Timor. Journalists, members of the United States Congress, members of Parliament of the United Kingdom, Japan and Australia and representatives of church organizations and human rights organizations have also visited East Timor in recent months. Even some East Timorese living in Portugal recently paid a visit to Indonesia, including East Timor where they met with their relatives.

"Indonesia's position on human rights has been clearly stated during the World Conference on Human Rights in Vienna last year and on various occasions in the United Nations. We recognize the universal validity of human rights and fundamental freedoms. Adhering to the provisions of the United Nations Charter we hold that the promotion and protection of human rights should proceed within the context of international cooperation and not according to the dictates or particular perceptions of any single country or group of countries. Cooperation implies respect for the sovereignty and for the values and cultural identity of other nations. There should be better appreciation of and sensitivity to the fact that in a developing country a proper balance must be struck between the rights of individuals and the rights of the community, the society and the nation as a whole.

"We also believe that the most basic of human rights, freedom from want, from hunger, from ignorance, from disease and from backwardness, should be given as much weight as the political and civil rights of individuals. It is the enjoyment of these economic and social rights that will ensure also the enjoyment of political and civil rights. To a large extent, it is because of Indonesia's adherence to this philosophy that has enabled it to achieve a measure of economic success which has earned the praise of international financial institutions, both within the United Nations system and outside it.

"As to the issue of East Timor, it will certainly be difficult to settle it while Amnesty International is intent on waging a political campaign to malign Indonesia. Nevertheless, we will continue to cooperate and support the United Nations Secretary-General in his efforts to find a comprehensive, just and internationally acceptable solution to the question of East Timor in the ongoing dialogue with Portugal. The Indonesian Government will continue its current efforts, which are encouraged by other countries and by the United Nations Commission on Human Rights, to enhance the human rights situation within the country.

"Meanwhile, if Amnesty International wishes to contribute to the cause of human rights in Indonesia or anywhere else, then it should drop its political agenda and go back to the pursuit of human rights objectives, which means that it should rejoin the mainstream of international cooperation on human rights instead of attacking one country for the political structure and taking to task other countries for not participating in the attack. It should cease waging a political campaign and reassume the spirit of dialogue."

By letter dated 3 November 1994 the Permanent Representative of the Republic of Indonesia to the United Nations Office at Geneva transmitted to the Assistant Secretary-General for Human Rights a note concerning a visit of a New Zealand parliamentary delegation to East Timor, reading as follows:

> "A five-member New Zealand parliamentary delegation has visited East Timor from 29 October to 1 November 1994 as a part of their nine-day visit to Indonesia. The delegation was led by Mr. Roger McClay from the Nationalist Party and consisted of Messrs. Nick Smith (Nationalist Party), Phil Goff, J. Sutton (Labor Party) and Tan Henaro (New Zealand First Party). Prior to their visit to East Timor, they have met with Foreign Minister, Ali Alatas, members of the House of Representatives, and the Chairman of the National Commission on Human Rights in Jakarta. They also met the Chief of the Udayana Military Regional Command in Denpasar, Bali.
>
> "The visit took place following the talks between President Soeharto and Prime Minister Jim Bolger. At the talks, the Indonesian President invited members of the New Zealand Parliament to visit East Timor and to see for themselves the development and the situation of human rights in East Timor.
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> "While in East Timor, they met the Governor of East Timor, the Speaker of the East Timor Provincial Legislative Assembly, the Rector of the East Timor State University, the Chief of the Wira Dharma military command, and the head of the Roman Catholic community, Bishop Belo. They also visited the Santa Cruz cemetery, the site of the Dili incident, the Becora correctional institute, a vocational course establishment set up by armed forces and several development projects funded by the New Zealand Government in the district of Lautem.
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> "At the conclusion of their visit to East Timor, the leader of the delegation, Roger McClay, stated to the press that 'the development in the region was much better than he had envisaged. Development after integration with Indonesia has been quite good and not like what some have described so far'. He added that 'the picture of development and the life of the people in the region are blurred and tend to be negative, but after seeing them on the spot they are in fact quite good'. He also expressed his appreciation to the Government of Indonesia as well as the local administration that had already given them liberty to visit and observe any places they wished and meet their officials."

By letter dated 21 November 1994 the Permanent Representative of the Republic of Indonesia to the United Nations Office at Geneva transmitted to the Assistant Secretary-General for Human Rights a press communiqué of the Ministry of Foreign Affairs of the Republic of Indonesia on the violence in Dili, East Timor and the sit-in demonstration at the Embassy of the United States of America in Jakarta, as well as information containing further details on the cause and consequences of the violence, reading as follows:

> "The demonstration in Jakarta which was timed to coincide with the holding of the 1994 APEC Leaders' Meeting clearly constituted a provocation intended to embarrass the Government of Indonesia at a time when it was engrossed in an activity that was vital to regional and global stability and prosperity. The action by the demonstrators was an unfortunate attempt to distract attention from the important achievements of the APEC ministerial meetings. Such an activity and the attendant publicity based on the false reports that the Government of Portugal always tries to disseminate do nothing to help resolve the East Timor issue.
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> "In this case, the Indonesian Government would like to emphasize that contrary to reports made by elements of the international press and further disseminated by the Government of Portugal, there has been no riot in Dili. What happened was a violent incident of a personal nature as a result of a quarrel between traders, one from Sulawesi and one from East Timor, which resulted in the unfortunate death of one person. A small group of people, however, have tried to make the incident into a political demonstration.
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> "Moreover, it is not true that 41 people, as the Portuguese Government claimed, were detained after the demonstration in Jakarta. The number of demonstrators involved in the case is 36 and since they had no money for food and shelter, they were provided with food and drink as well as a bus to take them back to East Java, where they are residents.
>
> "As to the 29 demonstrators who are now inside the United States Embassy compound, it is absolutely unnecessary for them to seek asylum since they are not being persecuted and the Indonesian Government has given assurances that they will not be arrested. However, they are free to leave Indonesia if they so wish and if any country is willing to receive them.
>
> "In the face of such agitation and propaganda activities, the Government of Indonesia will not be distracted from its work in international forums and its development work in East Timor. Indonesia remains committed to achieving an internationally acceptable settlement to the East Timor problem. Under the auspices of the United Nations Secretary-General, we are engaged in a dialogue with Portugal in a common search for such a solution which we believe can only be achieved through dialogue, negotiations and confidence-building measures and not through the publicity stunts that Indonesia's detractors have consistently resorted to.

"The cause and consequences of the violence on 12 November 1994 in Becora market, East Dili

"In Becora Market, East Dili, on 12 November 1994, at 14.30 local time, a quarrel broke out over a stall spot in the market between Mr. Sakir, a trader from Sulawesi and Mr. Visenti from East Timor, which turned into a violent fight between the two, resulting in the tragic death of Mr. Visenti. The two men, in fact, had long been known amongst the traders in Becora market to be hostile to each other. They had been seen arguing and fighting over the plot for the last three months. Mr. Sakir was immediately arrested for murder and Mr. Visenti's body was taken to Bobonaro, 130 km to the west of Dili, a place where he came from.

"On the same day, at 16.30 hours local time, a crowd gathered in Becora market to protest against the murder. As the number of people increased, they started to throw stones at the shops and houses of traders from Sulawesi. By 18.00 hours, the crowd had calmed down and people began to drift away.

"On 13 November 1994, sporadic demonstrations took place in various parts of Dili. Some people tried to make these isolated incidents into the biggest political demonstration in East Timor, to no avail. In most places, the demonstrations turned into a looting spree and houses were burned and shops and cars destroyed. Although, fortunately, no further lives were lost or people injured, the demonstrations caused a great loss of public and private property. In fact, the demonstrations were far from being peaceful as some quarters have adamantly insisted. However, they were not at all politically-motivated as some western newsmen have claimed.

"In this connection, Mgr. Carlos Filipe Ximenes Belo has issued a pastoral note which stressed that the latest incident was 'purely criminal'. The note further stated that as a people living in a country bound by the rule of law and justice, this kind of act will be judged according to the existing laws and regulations. We, therefore, shall hand over this situation to the competent authority and uphold the law of this country. We shall not take the law in our own hands and or act beyond its limits.

"By 17 November 1994, the local police had released 109 people due to lack of evidence against them, while 15 people were arrested for acts of violence and 7 were still being interrogated."

By letter dated 29 November 1994, the Permanent Representative of the Republic of Indonesia to the Untied Nations Office at Geneva transmitted to the Assistant Secretary-General for Human Rights a note concerning the presence of 29 East Timorese youths at the United States Embassy compound in Jakarta, from 12 to 22 November 1994, reading as follows:

> "The 12-day sit-in by a group of 29 East Timorese youths at the United States Embassy compound in Jakarta ended when they departed aboard a Dutch KLM flight at 19.54 p.m. local time from Jakarta's Soekarno-Hatta International Airport on Thursday, 24 November 1994, heading for Portugal where they expect to be given political asylum. The youths left the Embassy premises at 17.15 p.m. in an Indonesian Red Cross bus escorted by an Indonesian Immigration Office car.
>
> "The East Timorese entered the United States Embassy premises by scaling the compound's fence on 12 November 1994 and refused to leave until their demands, namely to meet and present a petition to United States President William Jefferson Clinton and Secretary of State Warren M. Christopher, were accepted.
>
> "Of the 29 East Timorese youths, four, namely Domingos Sarmento, Mario de Sousa Gama, Victor Tavares and Benigno Soares da Silva, are drop-out students whose scholarships were suspended by their respective universities in Surabaya and Denpasar when they failed to pass the required minimum GPA. One member of the group, Louis Maria Lopez was a prime suspect in a homicide case involving the stabbing to death of a man named Halibu in Tanah Abang, Jakarta. The rest were employees in several cities in Java.
>
> "On 20 November, one of them, Arlinto Freitas de Araujo Fernandez, fell ill and was taken to a local hospital for treatment but was later able to rejoin his group on 24 November to depart for Portugal, which had offered them asylum ever since they began their sit-in at the United States Embassy. The youths, who originally refused the offer, finally decided to accept it on 22 November after their demands to meet President Bill Clinton, State Secretary Warren M. Christopher, Ambassador Robert L. Barry and Foreign Minister Ali Alatas of Indonesia, and to free a jailed East Timor security disturbance group leader Jose Alexandre 'Xanana' Gusmao, were all rejected.
>
> "On the basis of its strong commitment to basic human rights and fundamental freedoms, the Government of Indonesia has consistently abided by its long-standing policy and permitted all of the youths, including Louis Maria Lopez allegedly involved in a murder case, to leave the country. Although Louis Maria Lopez is suspected to have been involved in the case, he has not been tried by a court so cannot be presumed guilty. In this connection, the Government in fact observed a presumption of innocence. Nevertheless, by the same token the Government has given assurances to the youths that no retribution will be sanctioned against them and that it will guarantee their safety should they wish to return home.

"Contrary to reports and allegations by certain international mass media and NGOs, none of the 36 East Timorese youths who remained outside the United States Embassy while their 29 comrades got inside the Embassy compound were arrested by the police. Since the former had no money for food and accommodation, they were subsequently provided with food and drink and a bus to take them back to East Java where they reside.

"The role of the ICRC was undeniably instrumental in arranging the departure of the 29 East Timorese youths in close cooperation with the Indonesian authorities. Beginning on Saturday, 19 November 1994, ICRC representatives met with the youths and ascertained that they wanted to go to Portugal. Following assurances from the Indonesian authorities, arrangements for the departure were finalized, as stated in ICRC Press Release No. 94/40 dated 24 November 1994.

"In its statement issued on 25 November 1994, the United States Embassy in Jakarta expressed its appreciation to the Government of Indonesia for its cooperation and assistance in ending the 12-day sit-in by 29 East Timorese youths in the Embassy compound.

The following are the names of the 29 East Timorese youths:

1. Domingos Sarmento Alves
2. Mario de Sousa Gama
3. Ortensio Icotos Nebos Carvalho da Costa
4. Bonaparte Soares
5. Linio Belmiro Filomino Freitas
6. Benigno S. Soares
7. Zito Antonio de Jesus Soares
8. Anecleto Berto Pereira
9. Jorge Jose Conçalves de Jesus
10. Jose Fransisco dos Santos
11. Luis da Costa de Jesus
12. Cornelio da Costa
13. Angelo Eco Soares
14. Abrao Mariano Santos
15. Domingos Joao Quintano Tilman Soares
16. Carlos da Silva Lopes

17. Victor Tavarez

18. Jorge Joao Lay

19. Arsento Falcao

20. Antonio Ramos da Silva

21. Helder Manuel Firez da Pidade

22. Arlindo Freitas de Araujo Fernandes

23. Lusiano Valentino da Conceicao

24. Ilio Manuel Carvalho Alin

25. Louis Maria Lopez

26. Angelo Minoti Soares

27. Calestino Dautel Sarmento

28. Jermano Fransisco Gomes

29. Boaventura Abilio Moreira."

Annex II

INFORMATION PROVIDED BY THE GOVERNMENT OF PORTUGAL

By note verbale dated 17 November 1992 the Permanent Mission of Portugal to the United Nations Office at Geneva transmitted to the Centre for Human Rights an information note established by the Ministry of Foreign Affairs of Portugal on the prevailing situation in Jakarta and East Timor and a statement made by the Ministry of Foreign Affairs on the third anniversary of the massacre of 12 November 1991, reading as follows:

Information note by the Ministry of Foreign Affairs of Portugal on the prevailing situation in Jakarta and East Timor

"The Ministry of Foreign Affairs is following closely and with great concern the latest events in Jakarta (where 41 East Timorese people have been detained while trying to enter the grounds of the United States Embassy and 29 more are already inside the compound of that diplomatic mission), as well as the events taking place in East Timor, where demonstrations by civilians have occurred in Dili and several other towns. One East Timorese has already been killed in circumstances yet to be clarified and there is news of a large number of wounded. It is feared that during today's funeral of the deceased new clashes may occur.

"The Portuguese authorities are conducting contacts and consultations with other Governments, namely the United States Government, and other international bodies in order to seek assurances of safety and prompt liberation for all detainees and the access to them by humanitarian organizations.

"These events show once more the need to find without delay a solution to the East Timor question that takes into full consideration the legitimate rights of its people. On the other hand, the painful background of violence and repression that has been forced upon this territory should lead the international community to follow with the greatest attention the future developments in this situation and to denounce any new human rights abuses that may occur.

Lisbon, 14 November 1994"

Statement by the Ministry of Foreign Affairs of Portugal on the third anniversary of the massacre of 12 November 1991

"The third anniversary of the brutal killings of defenceless Timorese civilians by Indonesian forces at the cemetery of Santa Cruz in Dili is today remembered in a very different context for the question of East Timor than that which prevailed on that tragic day, 12 November 1991.

"The question of East Timor is today effectively on the international agenda.

"In this achievement, the people of East Timor themselves played an essential role. Their sacrifice and suffering - which 12 November 1991, through the cruelty of the images recorded and transmitted, finally gave witness to - sparked the conscience of the world and allowed the opening of a new perspective of the question, favourable to the defence of their rights and fundamental freedoms.

"The international community has the right and the duty of continuing to demand that the respect for the legitimate rights of the Timorese people - including that of freely choosing their political future - be effectively observed, according to the principles and norms of international law and the resolutions adopted by the most important international forums.

"Three years have passed since the tragedy of the Santa Cruz cemetery without, to this day, there having been a serious and credible investigation on the fate of the disappeared, the actual number and identity of those killed and the circumstances surrounding the occurrence. Many Timorese accused of having organized the demonstration, which was repressed so brutally, continue imprisoned despite commitments undertaken.

"The Portuguese Government - paying tribute once again to the memory of the victims - reaffirms its dedication to obtaining, in a peaceful and negotiated manner, a solution to the question of East Timor that fully respects the rights of the Timorese as consecrated by the Charter and the relevant resolutions adopted by the United Nations."

Annex III

MATERIAL PROVIDED BY NON-GOVERNMENTAL SOURCES

During the period covered by the present report (March 1994 to January 1995) the main non-governmental source of information on the situation in East Timor was Amnesty International. Material received from Amnesty International was partly summarized and described in the note by the secretariat on the situation in East Timor, submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-sixth session (E/CN.4/Sub.2/1994/14, paras. 12-13). The secretariat also received petitions addressed to the Secretary-General of the United Nations, appealing for the unconditional release of Xanana Gusmao and the other East Timorese political prisoners.

Information provided by Amnesty International

On 13 July 1994, Amnesty International published a document entitled: "East Timor, who is to blame?" containing a statement made before the United Nations Special Committee on decolonization in July 1994, and a written submission comprising five chapters, entitled: "Torture and ill-treatment" (with four case-studies); "Extrajudicial execution and 'Disappearance'" (alleging the extrajudicial execution of nine East Timorese); "The question of access" (with one case-study); and "Conclusions and recommendations".

The following are excerpts from the conclusions contained in the Amnesty International document:

> "The human rights situation of East Timor remains serious in 1994 and, despite its often stated commitment to the protection of human rights, the Government of Indonesia has done little to address the root causes of the problem. This report has highlighted four particular areas of concern - torture, political imprisonment, extrajudicial execution and access to human rights monitors - both because they demonstrate the continuation of a long-standing pattern of abuse in East Timor, and because they appear to have been ignored or seriously misunderstood by Member States of the United Nations.
>
> "Torture and ill-treatment continue to be used routinely to intimidate suspected political opponents of Indonesian rule and to extract political intelligence. At the same time, the Government has failed to implement the concrete recommendations of the United Nations Special Rapporteur on torture. Political imprisonment after unfair trial, and short-term arbitrary detention remain commonplace. The Government has failed to clarify the fate of more than a small fraction of an estimated 270 people killed and 200 others thought to have 'disappeared', during and after the Santa Cruz massacre. The officers ultimately responsible for the killings have yet to be brought to justice, while civilians who survived the massacre or protested against it continue to serve lengthy prison terms. Meanwhile, further extrajudicial executions and 'disappearances' have been reported during the year. Serious restrictions remain on effective human rights monitoring, and some human rights organizations, including

Amnesty International, continue to be denied entry to the territory altogether. While the Government's decision to invite the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions to visit East Timor in July 1994 was a welcome step, concern remains about the conditions under which all such official visits take place.

"The principal responsibility for improving the human rights situation in East Timor unquestionably rests with the Government of Indonesia. However, the international community necessarily shares some responsibility, particularly in view of East Timor's unresolved status."

In August 1994 Amnesty International issued a document entitled "East Timor - Protesters beaten, detained, 'disappeared'", which alleged that tension between Indonesian Security forces and the East Timorese had intensified following a students' peaceful protest demonstration on 14 July 1994, which resulted in the arrest of protesters and the "disappearance" of several people. It was further alleged that anyone who expressed even the mildest criticism of Indonesian rule in East Timor was at risk of human rights abuse. Lists of people detained during or after the 14 July demonstration in Dili, and of people "disappeared" after that demonstration and in connection with the visit by the Special Rapporteur on extrajudicial, arbitrary or summary executions, were attached to the document.

In September 1994 Amnesty International published a booklet entitled "Power and impunity - Human rights under the new order", which reviews the situation of human rights in Indonesia since 1965. The document consists of nine chapters: 1. A history of repression; 2. Armed opposition and counter-insurgency; 3. Law and impunity; 4. Extrajudicial execution; 5. Torture, ill-treatment and death in custody; 6. Political imprisonment and unfair trial; 7. The death penalty; 8. Government human rights initiatives and 9. Conclusions and recommendations. While the booklet purports to describe the human rights situation throughout the Republic of Indonesia a specific sub-chapter regarding East Timor is included in chapters 2, 4, 5 and 6.

In December 1994, Amnesty International issued a document entitled "Amnesty International's concerns at the fifty-first United Nations Commission on Human Rights", including a sub-chapter on East Timor, reading as follows:

> "Serious human rights violations have continued in East Timor during 1994, with pro-independence activists and protesters against Indonesian rule risking arbitrary arrest, imprisonment, torture and, in some cases, extrajudicial execution. Hundreds of alleged political opponents have been arbitrarily detained during the year and at least 26 are currently serving terms of up to life imprisonment following political trials which did not meet with international standards for fair trial. They include six prisoners of conscience sentenced during the year. The fate of most of those killed or 'disappeared' in the Santa Cruz massacre of November 1991, and in previous years, has still not been clarified. In November 1994, the security forces arrested dozens of East Timorese in Jakarta to prevent them from joining 29 peaceful pro-independence protesters who entered the United States embassy. In Dili, at least 25, and possibly many more, East Timorese were detained and a number killed during several days of unrest, which was at times

violent on both sides, beginning on 12 November. The Commission adopted a first resolution on East Timor, 1993/97, at its forty-ninth session, which was not followed up in 1994 despite evidence of the worsening human rights situation. The Chairperson delivered only a consensus statement at the last session, as had occurred in 1992. Amnesty International welcomed the visits to East Timor by the Special Rapporteur on torture in 1991 and the Special Rapporteur on extrajudicial, summary and arbitrary executions in July 1994. However, it remains concerned that most of the recommendations contained in the 1992 report of the Special Rapporteur on torture and in resolution 1993/97 have not been implemented by the Government. Amnesty International calls on the Commission to ensure the full and prompt implementation of these recommendations and the adoption of the resolution under Item 12."
